U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

MAY 13 2014

Michael Borozenets
[redacted]

Dear Mr. Borozenets,

This letter is in response to your request for a legal interpretation relating to the assignment of split duty to a reserve flight crewmember. You specifically asked whether an assignment to split duty during airport/standby reserve would violate the requirement of 14 C.F.R. § 117.15(c) that the split duty "rest opportunity must be scheduled before the beginning of the flight duty period in which that rest opportunity is taken." Your letter assumes that all other requirements for split duty under § 117.15 are met.

Section 117.21(b) in pertinent part provides that "For airport/standby reserve, all time spent in a reserve status is part of the flightcrew member's flight duty period." This means that the FDP limits for an eventual assignment during airport/standby reserve must be calculated from the time the flightcrew member reported to airport/standby reserve. Additionally, even if a flightcrew member is not subsequently assigned to a flight segment, all time spent in airport/standby reserve must be counted toward that flightcrew member's cumulative FDP limits in § 117.23(c). *See*, Clarification of Flight Duty, and Rest Requirements, 78 FR 14166 (March 5, 2013).

Your question then turns to whether § 117.15(c) should be so narrowly construed as to preclude a certificate holder from scheduling a split duty assignment for a flightcrew member on airport/standby reserve. In a Letter to Captain Don Wykoff and Douglas K. Mullen sent by Mark W. Bury, Assistant Chief Counsel for International Law, Legislation and Regulations (March 20, 2014), the FAA answered the following question:

> 12. 117.15(d) – Split Duty – Rest Scheduled and Received: *May the amount or start time for split duty rest be rescheduled or reassigned after the start of the split duty FDP?*
>
> Section 117.15(c) states that the split duty rest opportunity must be "scheduled before the beginning of the flight duty period in which that [split duty] rest opportunity is taken." (emphasis added). This provision ensures that a flightcrew member knows when the rest opportunity will be taken during the course of the

> FDP. Under § 117.15(d), the rest opportunity that is actually provided cannot be less than the rest opportunity scheduled. Thus, the length of the rest opportunity can be extended, but it cannot be less than what was scheduled. This is the only flexibility available for scheduling the split duty rest opportunity once an FDP has begun.

In the above discussion regarding § 117.15(c), the FAA clarified the intent behind the provision to ensure that, like other rest, split duty rest is to be prospective. The preamble to the final rule also discussed the reasoning behind this requirement:

> The rationale for this is that flightcrew members must, at the beginning of their FDP, evaluate their ability to safely complete their entire assigned FDP. In order to do so, they must not only know the length of the FDP, but any scheduled split duty rest breaks that they will receive during the FDP. *See*, 77 Fed. Reg. 331 (Jan. 4, 2012)

So the related question posed by your letter is whether, at the time of the assignment to split duty during an airport/standby reserve period, does the flightcrew member prospectively know when the split duty rest opportunity will be taken, as required by § 117.15(c)? The answer to that question is yes. The FAA would view the assignment as prospective.

Although all time spent in airport/standby is treated and counted as part of an FDP, the remaining provisions of part 117 do not become pertinent until a flight assignment is made. Thus, it would be consistent to treat the assignment of split duty equally, whether it is part of a scheduled FDP assignment, part of an airport/standby reserve period, or following a short call RAP. In the context of an airport/standby reserve period, so long as a flightcrew member knows prior to the first flight segment when the split duty rest opportunity is to be taken, the intent behind § 117.15(c) is met.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This letter has been prepared by Robert H. Frenzel, Manager, Operations Law Branch, Office of the Chief Counsel and coordinated with the Air Transportation Division of Flight Standards Service.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for International
Law, Legislation and Regulations, AGC-200